

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Tessa Yesselman	Team: Squad #4	CCRB Case #: 202000069	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Thursday, 11/21/2019 6:30 PM	Location of Incident: § 87(2)(b)	Precinct: 13	18 Mo. SOL 5/21/2021	EO SOL 1/5/2022	
Date/Time CV Reported Fri, 01/03/2020 3:56 PM	CV Reported At: CCRB	How CV Reported: In-person	Date/Time Received at CCRB Fri, 01/03/2020 3:56 PM		

Complainant/Victim	Type	Home Address
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. SGT Brian Jarnich	03636	950625	013 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Jungho Park	10152	944877	013 PCT
2. POM Christian Desandis	26714	965043	013 PCT
3. POM Cristian Garcia	12258	965728	013 PCT
4. POF Isamar Ponce	10309	966780	013 PCT
5. POM Michael Cangelosi	04586	950152	013 PCT
6. POM Giovanni Albanese	14507	965922	013 PCT

Officer(s)	Allegation	Investigator Recommendation
A.SGT Brian Jarnich	Abuse: Sergeant Brian Jarnich entered § 87(2)(b) in Manhattan.	§ 87(2)(b)
B.SGT Brian Jarnich	Abuse: Sergeant Brian Jarnich searched § 87(2)(b) in Manhattan.	§ 87(2)(b)

Case Summary

On January 3, 2020, § 87(2)(b) filed this complaint in person at the CCRB.

On November 21, 2019, at approximately 6:30 PM, Sergeant Brian Jarnich, along with Police Officer Jungho Park, Police Officer Christian Desandis, Police Officer Cristian Garcia, Police Officer Isamar Ponce, Police Officer Giovanni Albanese, and Police Officer Michael Cangelosi, all from the 13th Precinct, responded to a 911 call regarding a violent Emotionally Disturbed Person (EDP), who was hurting children inside of § 87(2)(b) in Manhattan. Sergeant Jarnich entered and searched the apartment (**Allegation A and Allegation B, Abuse of Authority, § 87(2)(g)**).

No arrests were made or summons issued as a result of this incident.

The CCRB received 8 Body Worn Camera (BWC) videos of the incident (**Board Reviews 5-8, 23-26**).

Allegation (A) Abuse of Authority: Sergeant Brian Jarnich entered § 87(2)(b), in Manhattan.

Allegation (B) Abuse of Authority: Sergeant Brian Jarnich searched § 87(2)(b), in Manhattan.

§ 87(2)(b) is the lease holder of § 87(2)(b), where she lives with her two children. On November 21, 2019, at 6:30 PM, § 87(2)(b) stated (**Board Review 01**) that she arrived home and § 87(2)(b), the concierge, told her that officers had entered her apartment. § 87(2)(b) told § 87(2)(b) that police officers said there was a 911 call alleging that the person in the apartment was mentally ill and abusing and beating the children inside the apartment. A couple of minutes later, a group of police officers entered the lobby from upstairs. The officers told § 87(2)(b) that there was an emergency call alleging that a mentally ill person might have needed to be restrained inside of the apartment, which required an immediate response.

§ 87(2)(b) (**Board Review 02**) provided a statement consistent with § 87(2)(b)s.

§ 87(2)(b) the concierge, stated (**Board Review 03**) that officers arrived and said that a child was being beaten in § 87(2)(b). Officers went upstairs to § 87(2)(b) knocked on the door, and then returned to the lobby. § 87(2)(b) told officers that § 87(2)(b) was likely not home. § 87(2)(b) called her, but § 87(2)(b) did not answer. Officers stated they were going to forcibly open the door. § 87(2)(b) spoke to his manager about opening the door for the officers. § 87(2)(b) then sent § 87(2)(b) the handyman, upstairs to open the door for officers. § 87(2)(b) did not witness the officers' entry into the apartment.

§ 87(2)(b) the handyman, confirmed (**Board Review 04**) that he opened the apartment door for the officers. He did not see what the officers did inside the apartment.

Sgt. Jarnich (**Board Review 19**) stated that he responded to a call for a violent EDP at § 87(2)(b). A 911 caller stated that the tenant in § 87(2)(b) had stopped taking her psychiatric medications, was abusing her children in the apartment, and was banging on doors in the hallway and being loud. Sgt. Jarnich had no communication with the 911 caller. Sgt. Jarnich did not know who the 911 caller was or what their relationship to the occupants of § 87(2)(b) was. When Sgt. Jarnich arrived at the location, the concierge in the lobby told him that the tenant may not be home. Sgt. Jarnich went to the § 87(2)(b) floor and knocked on the door to § 87(2)(b). Nobody answered the door. Sgt. Jarnich did not hear anything inside the apartment and did not observe anyone in the

hallways. Sgt. Jarnich went back to the lobby and told the building manager that the FDNY would have to break the door to § 87(2)(b) if the building did not open the door. The building handyman opened the door for Sgt. Jarnich, and Sgt. Jarnich did a safety sweep of the apartment. Nobody was inside of the apartment. Sgt. Jarnich made the decision to enter the apartment because the 911 caller said that the tenant was abusing children in the apartment and that the tenant had stopped taking her medication. Sgt. Jarnich needed to go in the apartment to make sure that nobody was injured and to check on the safety of the children in the apartment. Sgt. Jarnich made the decision to enter the apartment without getting a warrant because the situation was an emergency and he had concerns for the mental and physical safety of the people inside of the apartment.

Sgt. Jarnich's BWC (**Board Review 05**) depicts Sgt. Jarnich in an elevator with § 87(2)(b) at :00. Sgt. Jarnich and Louie exit the elevator and walk to an apartment door. At :27, Louie opens the apartment door and officers enter the apartment, followed last by Sgt. Jarnich.

None of the BWC received for this case captures when officers initially knock on the door or speak with § 87(2)(b) in the lobby.

The EVENT (**Board Review 09**) details that on November 21, 2019, at approximately 6:03 p.m., a male caller stated that inside of § 87(2)(b) there was an "aided female 34-- off of her psych meds-- banged on doors-- yells—children in apartment— has beaten them." The call was marked as an "ambulance case: EDP/inside."

The radio run (**Board Review 10**) relays at :50 that there was a "violent EDP off their meds banging on doors, children in apartment, beating on them."

The 911 caller (**Board Review 11**) identified himself as a neighbor, provided § 87(2)(b)'s apartment number and stated, at 4:27, in regards to § 87(2)(b) "hasn't been taking her psych meds, yelling in the hallway and slamming doors... Has two kids in the apartment at the same time." At 1:41, the 911 caller says, "She is acting violent, beats her kids constantly, every night and every day." in the apartment. She is acting violent, beats her kids constantly, every night and every day." The 911 caller did not provide his name, apartment number, and was never asked for his callback number.

The courts have established that warrantless entries into private homes are considered unconstitutional. Exceptions to this rule include emergency situations, as established in *People V. Dallas*, 8 N.Y. 3d 890 (2007) (**Board Review 20**) N.Y. Emergency situations that require police must have reasonable grounds to believe that there is an emergency at hand and an immediate need for their assistance for the protection of life or property. *People v. Greenleaf*, 222 A.D.2d 838 (**Board Review 21**). *People v. Ponto*, 103 A.D.2d 573 (**Board Review 22**) established that landlords may consent to searches of shared spaces (hallways, lobbies, etc.), but that they lack the authority to consent to searches inside of leased residential spaces, where residents have an expectation of privacy.

§ 87(2)(g)

[REDACTED]

§ 87(2)(g)

Civilian and Officer CCRB Histories

- This is the first CCRB complaint to which § 87(2)(b) has been a party (**Board Review 14**).
- This is the third CCRB complaint to which § 87(2)(b) has been a party (**Board Review 15**).

§ 87(2)(b)

- Sergeant Jarnich has been a member of service for eight years and has been a subject in two other CCRB complaints and six allegations, none of which were substantiated. § 87(2)(g)

Mediation, Civil and Criminal Histories

- § 87(2)(b) and § 87(2)(b) declined to mediate this complaint.
- As of April 28, 2020, the New York City Office of the Comptroller has no record of a Notice of Claim being filed in regards this to this complaint (**Board Review 16**).

§ 87(2)(b), § 87(2)(c)

Squad No.: 4

Investigator: Tessa Yesselman SI. Tessa Yesselman 3/16/2021
Signature Print Title & Name Date

Squad Leader: Raquel Velasquez IM Raquel Velasquez 3/16/2021
Signature Print Title & Name Date

Reviewer: _____
Signature Print Title & Name Date